IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 18829 of 2007(N)

OS.5/2000 of PRINCIPAL SUB COURT, PALAKKAD

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PETITIONER: DEFENDANT/JUDGMENT DEBTOR

MANIKKAN, S/O CHERUKUTTY,
KANJIRAKKADAVU, KOTTEKKAD, PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C
SRI.K.K.DHEERENDRAKRISHNAN

RESPONDENTS: PLAINTIF/DECREE HOLDER

KRISHNAN @ KRISHNAMOORTHY,
S/O.SUBRAMANIAN PILLA, KUTTY PULLY,
AKATHETHARA, PALAKKAD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

WP(C).No. 18829 OF 2007 N

Dated this the 20th June, 2007.

JUDGMENT

This writ petition is filed seeking to quash the proceedings in E.P.19/05 in O.S.5/00 pending before the Subordinate Judge's Court, Palakkad. The writ petitioner has a raised a contention that the present execution petition for delivery of the property is beyond the scope of the decree and therefore the execution petition is liable to be dismissed. It has to be understood that the suit is one for specific performance and a decree is granted directing the defendant to execute a document in favour of the plaintiff or on failure the court to execute the document. Accordingly the court has executed the document and thereby has confirmed title on the plaintiff. Now what the plaintiff wants is to get possession of the property in the light of the document. There cannot be any other prayer which would be otherwise. The contention raised is not tenable and therefore it is rejected. Meanwhile learned counsel for the petitioner submits that he may like to compromise the matter with the decree holder and the court may give breathing time to do the same. I am inclined to grant some time. Therefore the delivery which is posted for tomorrow is deferred for a period of three

weeks and in case of failure to arrive at a settlement, the court may fix a date for delivery and deliver the property accordingly. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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